

RETURN DATE: AUGUST 6, 2019 : SUPERIOR COURT  
HOPE COLES, ET AL. : J.D. OF STAMFORD/NORWALK  
V. : AT STAMFORD  
CITY OF NORWALK, ET AL. : JULY 4, 2019

## CLASS ACTION COMPLAINT

### I. INTRODUCTION

This is a class action lawsuit brought pursuant to Practice Book § 9-7 and §9-8 alleging Defendant City of Norwalk (“**City**”), Norwalk Board of Education (“**Board**”), and Norwalk Public Schools District (“**District**” and collectively with **City** and **Board**, the “**Defendants**”), committed *wage theft* by weekly removing time from all of the hourly wage employees to circumvent the concession of benefits and avoid the obligation to pay additional wages.

### II. PARTIES

1. Plaintiff Hope Coles (“**Coles**”) is a resident of Fairfield County, Connecticut.
2. Plaintiff Sadiya DeIrish (“**DeIrish**” and collectively with Plaintiff Coles, the “**Plaintiffs**”) is a resident of Fairfield County, Connecticut.
3. Defendant City of Norwalk (“**City**”) is a local municipality responsible for the education of its citizens.
4. Defendant Norwalk Board of Education (“**Board**”) is responsible for overseeing the administration of educational services offered to the residents of Defendant City. Furthermore, Defendant Board is responsible for all

employment related decisions of Defendant City, including but not limited to, controlling the Plaintiffs' work schedules and conditions of employment; determine the rate and method of the payment of wages; and maintain at least some records regarding Plaintiffs' employment. Defendant Board acts as an agent of Defendant City.

5. Defendant Norwalk Public Schools District ("**District**") is a Department of Defendant City and is primarily responsible for the administration of education to the City's residents. Defendant District acts as an agent of Defendant City.

6. Defendants City, District and Board, unless otherwise specified herein, shall be referred to hereafter collectively as "**Defendants.**"

7. Defendants are duly licensed to transact business within the State of Connecticut.

8. Defendant City is an employer as defined under Conn. Gen. Stat. § 31-71a(1).

### **III. JURISDICTION AND VENUE**

9. The Plaintiffs bring this suit pursuant to their statutory authority under Conn. Gen. Stat. § 31-72 and the Court has jurisdiction of this matter and this is an appropriate venue because Defendant City is an Employer as defined under Conn. Gen. Stat. § 31-71a(1) and Plaintiffs are residents of Fairfield County, Connecticut.

#### IV. FACTUAL ALLEGATIONS

10. Upon information and belief, Defendants have not posted a notice explaining the overtime pay rights provided under Conn. Gen. Stat. § 31-76b.

11. Plaintiff Coles is employed by Defendants as Administrative Secretary whose responsibilities include, but are not limited to: (1) assisting in the implementation of Defendants' administrative policies, rules, regulations and directives; (2) receiving and following oral or written instructions from supervisor (Principal); and (3) *inputting staff attendance and time in NOVAtime*.

12. Defendants pays their Administrative Secretaries an hourly wage.

13. Plaintiff Coles earns an hourly wage of \$34.11 per hour.

14. Administrative Secretaries are classified as non-exempt and eligible for overtime pay.

15. Plaintiff DeIrish is employed by Defendants as Office Assistant whose responsibilities include, but are not limited to: (1) Assisting in the implementation of Defendants' administrative policies, rules, regulations and directives; (2) serving as school office receptionist and assist with office functions; and (3) admitting visitors into the school through electronic school entry system and scan identification through visitor data software.

16. Defendants pay their Office Assistants an hourly wage.

17. Plaintiff DeIrish earns an hourly wage of approximately \$22.78 per hour.

18. Office Assistants are classified as non-exempt and eligible for overtime pay.

19. During at least the last two years, Defendants have engaged in a scheme that has intentionally and unilaterally reduced the hours of Plaintiffs and others similarly situated.

20. Specifically, Defendants have instructed the Administrative Secretaries of each school to monitor the hours worked by non-exempt employees, and then manually login to the Defendants' time tracking software, NOVAtime, to change all of the employees' timecards to reflect their "schedule" instead of actual hours worked.

21. For example, Administrative Secretaries are instructed to reduce the total hours of fulltime (non-exempt) employees to ensure they rarely exceed 37.5 hours per week.

22. Accordingly, Administrative Secretaries are instructed to reduce the total hours of part-time employees to ensure they rarely exceed 29 hours per week.

23. The employees who were affected are those who worked in the following positions: Account Specialist, Administrative Secretary, Applied Behavior Analysis, Executive Secretary, Extended Learning Program Coordinator, Health Services Assistant, Library Media Assistant, Office Assistant, Paraeducator, Parent Outreach Coordinator, Reading Interventionist,



Secretary I, Secretary II, Student Information Systems Assistant, Student Information Systems Specialist, Transportation Coordinator, and Tutor.

24. All such employees were paid by the hour.

25. Defendants' reductions did not consider the employees' job duties.

26. After the implementation of NOVAtime, Defendants conducted a training, led by the payroll department and comptroller, for all Administrative Secretaries, wherein the Administrative Secretaries were taught and instructed on how to login to NOVAtime and manually change other employees' time.

27. Because of that training, the policy of reducing hours became uniform throughout all of the school district.

28. Defendants' wage theft scheme effectively cheated Plaintiffs, and all those similarly situated to Plaintiffs, out of countless hours worked for which they were owed wages at their respective hourly rates.

29. In addition, Plaintiffs, and all those similarly situated to Plaintiffs, were not paid any overtime wages by Defendants, for hours worked during the weeks in which they worked in excess of 40 hours.

30. Defendants' failure to pay Plaintiffs, and all those similarly situated to Plaintiffs, has been willful, arbitrary, unreasonable, and/or in bad faith.

31. Defendants operate, manage, and control approximately twenty-one (21) schools.

32. Each school controlled by the Defendants employs an Administrative Secretary.

33. On average, each Administrative Secretary, of each school, manually reduces the hours of approximately ten (10) to fifteen (15) employees per week.

## V. CLASS DEFINITION

34. Plaintiffs reserve the right, as might be necessary or appropriate, to modify or amend the definition of the proposed Class, when Plaintiffs file their motion for class certification, notwithstanding, the proposed Class on whose behalf this action is brought is defined as follows:

All current and former employees of Defendants who were employed as hourly paid employees and subject to Defendants' wage reduction policies within the last two years, including but not limited to, the following positions: **Account Specialist, Administrative Secretary, Applied Behavior Analysis, Executive Secretary, Extended Learning Program Coordinator, Health Services Assistant, Library Media Assistant, Office Assistant, Paraeducator, Parent Outreach Coordinator, Reading Interventionist, Secretary I, Secretary II, Student Information Systems Assistant, Student Information Systems Specialist, Transportation Coordinator, and Tutor.**

## VI. CLASS ACTION ALLEGATIONS

35. Plaintiffs bring this case as a class action pursuant to Sections 9-7 and 9-8 of the Practice Book on behalf of themselves and the proposed Class of those similarly situated.

36. The proposed Class meets all requirements for class certification. The class is comprised of at least hundreds of individuals, since Defendants employ more than 400 non-exempt hourly wage employees at any given time. As a result, joinder of all class members in a single action is impracticable. On

information and belief, Class members can be identified through appropriate discovery.

37. There are questions of fact and law common to the proposed Class, and those questions predominate over questions that affect individual class members only. These common questions include, but are not limited to, the following:

- a. Whether Defendants have a policy of reducing the actual hours worked by their hourly wage employees;
- b. Whether or not the putative class members were not paid for all hours worked due to Defendants' policy of reducing the actual hours worked;
- c. Whether or not the putative class members worked overtime hours but were not paid for working said overtime hours;
- d. Whether or not Defendants' policy and practice of reducing hourly employees' hours is a violation of Conn. Gen. Stat. §§ 31-71a et seq.

38. Plaintiffs are adequate representatives for the proposed Class because they are members of the Class and their interests do not conflict with the interests of the members of the proposed Class they seek to represent.

Furthermore, Plaintiffs have retained experienced counsel who have extensive experience prosecuting complex cases, including class action lawsuits, in state and federal court.

39. Plaintiffs' claims are typical of the claims of the proposed Class because they arise out of the same conduct, policies and practices of the Defendants with respect to their payment of hourly wages to hourly employees.

Plaintiffs' legal claims are based on the same legal theories as the claims of the putative class members. Plaintiffs have suffered the injury alleged and have no interests antagonistic to the interests of any other putative Class member.

40. Class-wide issues predominate because generalized evidence can be offered to prove the elements under Conn. Gen. Stat. §§ 31-71a et seq., on a class-wide basis.

41. A class action is superior to other available methods for the fair and efficient adjudication of this controversy. The damages sustained by each Class member, while substantial, are much smaller than the cost that will be entailed in litigating the case. Moreover, multiple lawsuits will place a substantial and unnecessary burden on courts and could result in inconsistent verdicts. Accordingly, a class action will most fairly, equitably, and efficiently resolve the controversy.

42. Notice can be provided to Class members by using techniques and forms of notice similar to those customarily used in other class action cases.

#### **COUNT ONE**

#### **CONN. GEN. STAT. § 31-72 (CLAIM FOR UNPAID WAGES UNDER 40 HOURS) (On Behalf of Plaintiff Coles)**

43. Plaintiff Coles incorporate by reference the foregoing paragraphs as set forth herein.

44. Plaintiff Coles is scheduled to work 37.50 hours per week.

45. Plaintiff Coles routinely works in excess of 37.50 hours per week.



46. Defendants have a practice of removing Plaintiff Coles' hours each week to reflect her schedule instead of the hours she actually worked.

47. Plaintiff Coles has been denied wages for those additional hours worked without compensation.

48. The aforementioned conduct of the Defendants constitutes a failure to pay employee wages and benefits pursuant to Conn., Gen. Stat. §31-71 et seq.

49. Defendants' failure to pay Plaintiff Coles *all of her* wages was arbitrary, unreasonable and in bad faith.

50. By authority of Conn. Gen. Stat. §31-72, Plaintiff Coles seeks to collect double damages with attorney's fees, cost, and interest from the date the payments should have been received from the Defendants.

## **COUNT TWO**

### **CONN. GEN. STAT. § 31-72 (CLAIM FOR UNPAID WAGES OVER 40 HOURS) (On Behalf of Plaintiff Coles)**

51. Plaintiff Coles incorporate by reference paragraphs 1-42 as set forth herein.

52. Plaintiff Coles is scheduled to work 37.50 hours per week.

53. Plaintiff Coles routinely works in excess of 40 hours per week.

54. Defendants have a practice of removing Plaintiff Coles' hours each week to reflect her schedule instead of the hours she actually worked.

55. Plaintiff Coles has been denied wages for those additional hours worked without compensation.



56. Defendants' conduct in failing to pay Plaintiff Coles her earned overtime premium was arbitrary, unreasonable and in bad faith, in that Defendants knew or should have known that Plaintiff Coles was entitled to be paid for her overtime but failed to do so.

57. By authority of Conn. Gen. Stat. §31-72, Plaintiff Coles seeks to collect double damages with attorney's fees, cost, and interest from the date the payments should have been received from the Defendants.

### **COUNT THREE**

#### **CONN. GEN. STAT. § 31-72 (CLAIM FOR UNPAID WAGES UNDER 40 HOURS) (On Behalf of Plaintiff DeIrish)**

58. Plaintiff DeIrish incorporate by reference paragraphs 1-42 as set forth herein.

59. Plaintiff DeIrish is scheduled to work 37.50 hours per week.

60. Plaintiff DeIrish routinely works in excess of 37.50 hours per week.

61. Defendants have a practice of removing Plaintiff DeIrish's hours each week to reflect her schedule instead of the hours she actually worked.

62. Plaintiff DeIrish has been denied wages for those additional hours worked without compensation.

63. The aforementioned conduct of the Defendants constitutes a failure to pay employee wages and benefits pursuant to Conn., Gen. Stat. §31-71 et seq.

64. Defendants' failure to pay Plaintiff DeIrish *all of her* wages was arbitrary, unreasonable and in bad faith.

65. By authority of Conn. Gen. Stat. §31-72, Plaintiff DeIrish seeks to collect double damages with attorney's fees, cost, and interest from the date the payments should have been received from the Defendants.

#### **COUNT FOUR**

#### **CONN. GEN. STAT. § 31-72 (CLAIM FOR UNPAID WAGES OVER 40 HOURS) (On Behalf of Plaintiff DeIrish)**

66. Plaintiff DeIrish incorporate by reference paragraphs 1-42 as set forth herein.

67. Plaintiff DeIrish is scheduled to work 37.50 hours per week.

68. Plaintiff DeIrish routinely works in excess of 40 hours per week.

69. Defendants have a practice of removing Plaintiff DeIrish's hours each week to reflect her schedule instead of the hours she actually worked.

70. Defendants' conduct in failing to pay Plaintiff DeIrish her earned overtime premium was arbitrary, unreasonable and in bad faith, in that Defendants knew or should have known that Plaintiff DeIrish was entitled to be paid for her overtime but failed to do so.

By authority of Conn. Gen. Stat. §31-72, Plaintiff DeIrish seeks to collect double damages with attorney's fees, cost, and interest from the date the payments should have been received from the Defendants.

## COUNT FIVE

### CONN. GEN. STAT. § 31-72 (CLAIM FOR UNPAID WAGES UNDER 40 HOURS) (On Behalf of Plaintiffs and the proposed Class)

71. Plaintiffs and the proposed Class incorporate by reference paragraphs 1-42 as set forth herein.

72. All members of the proposed Class are scheduled to work less than 37.50 hours per week.

73. All members of the proposed Class routinely work in excess of 37.50 hours per week.

74. Defendants have a practice of removing the proposed Class' hours each week to reflect their schedule instead of the hours they actually worked.

75. Plaintiffs and the proposed Class have been denied wages for those additional hours worked without compensation.

76. The aforementioned conduct of the Defendants constitute a failure to pay employee wages and benefits pursuant to Conn., Gen. Stat. §31-71 et seq.

77. Defendants' failure to pay Plaintiffs and the proposed Class *all of their* wages was arbitrary, unreasonable and in bad faith.

78. By authority of Conn. Gen. Stat. §31-72, Plaintiffs and the proposed Class seek to collect double damages with attorney's fees, cost, and interest from the date the payments should have been received from the Defendants.

**COUNT SIX**

**CONN. GEN. STAT. § 31-72  
(CLAIM FOR UNPAID WAGES OVER 40 HOURS)  
(On Behalf of Plaintiffs and the proposed Class)**

79. Plaintiffs and the proposed Class incorporate by reference paragraphs 1-42 as set forth herein.

80. All members of the proposed Class are scheduled to work less than 37.50 hours per week.

81. All members of the proposed Class routinely work in excess of 40 hours per week.

82. Defendants have a practice of removing the proposed Class' hours each week to reflect their schedule instead of the hours they actually worked.

83. Defendants' conduct in failing to pay Plaintiffs and the proposed Class their earned overtime premium was arbitrary, unreasonable and in bad faith, in that Defendants knew or should have known that Plaintiffs and the proposed Class were entitled to be paid for their overtime but failed to do so.


84. The aforementioned conduct of the Defendants constitutes a failure to pay employee wages and benefits pursuant to Conn., Gen. Stat. §31-71 et seq.

85. By authority of Conn. Gen. Stat. §31-72, Plaintiffs and the proposed Class seek to collect double damages with attorney's fees, cost, and interest from the date the payments should have been received from the Defendants.

WHEREFORE, the Plaintiffs respectfully request the following relief:

- a. The Court certify this case as a class action under Practice Book §9-7 and §9-8 and that Plaintiffs be certified as class representatives for the purpose of representing the class, and that Plaintiffs' counsel be approved as lead attorneys for the Class;
- b. Judgment against Defendants in favor of the Class, the class representatives, and the class members, in an amount to be established at trial, for damages caused by Defendants;
- c. Attorney's fees, cost and interest pursuant to Conn. Gen. Stat. § 31-72; and
- d. Any further equitable relief the Court deems appropriate.
- e. The amount, legal interest, or property in demand is \$15,000.00 or more, exclusive of interest and costs.

THE PLAINTIFFS,

BY   
Ryan Daugherty, Esq.  
Daugherty Law Group, LLC  
Juris No. 439385  
260 Madison Avenue, 8<sup>th</sup> Floor  
New York, New York 10016  
(646) 859-1674  
Their Attorney

Carlos Leach, Esq.  
The Leach Firm, P.A.  
(Pro Hac Vice Motion Forthcoming)  
1950 Lee Road, Suite 213  
Winter Park, FL 32789  
(407) 574-4999  
Their Attorney